

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

DROPLETS, INC.	§	
	§	
v.	§	Case No. 2:11-CV-401-JRG
	§	
OVERSTOCK.COM, INC., ET AL.	§	

**MINUTES FOR TRIAL DAY 3  
HELD BEFORE U. S. DISTRICT JUDGE RODNEY GILSTRAP  
January 15, 2015**

**OPEN: 8:20 a.m.**

**ADJOURN: 6:31 p.m.**

ATTORNEYS FOR PLAINTIFF:	Sam Baxter Ted Stevenson Josh Budwin James Quigley Jenna Albert
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ATTORNEYS FOR DEFENDANTS:	Richard Whiteley John Barr Gil Gillam Chris Shield Kelley Clark Tim Geiger
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LAW CLERKS:	Rudy Fink Craig Walter
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COURT REPORTER:	Shelly Holmes, CSR-TCRR
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COURTROOM DEPUTY:	Jan Lockhart
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TIME	MINUTES
8:20 p.m.	Court reconvened. Ms. Albert read list of the exhibits used by Plaintiff prior day into the record. PX 161, 570, 664, 665, 666, 667 and DTX 95. Mr. Shield read list of exhibits used by Defendants prior day into the record. DTX 15, 16, 18, 70, 95, 101; PX 158, 161 and 570.
8:23 p.m.	Discussion re PX 667. To be filed with the Clerk.
8:25 p.m.	Jury returned to courtroom
8:26 a.m.	Direct examination of Dr. Wilde continued by Mr. Shield.
8:35 a.m.	PX 4 and PX 1 used.
8:48 a.m.	Portion of trial transcript of Dr. Brittan shown.

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TIME	MINUTES
	DTX 1 used.
	DTX 2 used.
	DTX 3 used.
8:50 a.m.	Objection by Mr. Budwin. Bench conference.
8:51 a.m.	Jury excused.
8:52 a.m.	Hearing outside the presence of the jury. Mr. Budwin and Mr. Shield argued. Dr. Wilde's report reviewed.
9:06 a.m.	Hearing concluded; time to be charged to both parties.
9:08 a.m.	Jury returned to the courtroom. Direct examination of Dr. Wilde continued.
9:11 a.m.	DTX 1 used.
9:21 a.m.	DTX 3 used.
9:56 a.m.	Jury excused for break.
10:10 a.m.	Court reconvened. Mr. Budwin addressed court re issue with Defendants' expert. Mr. Shield responded. Court overruled objection.
10:14 a.m.	Jury returned to courtroom.
	Cross examination of Dr. Wilde by Mr. Budwin.
10:22 a.m.	Video deposition testimony of Dr. Wilde - Pages 120:21-25; Page 121:1-5.
10:46 a.m.	PX 1 used.
10:49 a.m.	PX 15 used.
10:51 a.m.	Bench Conference.
10:52 a.m.	Redirect examination of Dr. Wilde by Mr. Shield.
10:53 a.m.	Objection. Leading. Sustained.
10:55 a.m.	Objection. Leading. Sustained.
10:58 a.m.	Recross examination of Dr. Wilde by Mr. Budwin.
10:59 a.m.	P140:12 -16; 141:8-11 of Transcript showing
	Parties passed the witness.
11:00 a.m.	Direct examination of Stephen Gray by Mr. Barr.
11:10 a.m.	DTX 291 and 287 used.
11:31 a.m.	Bench conference.
11:49 a.m.	Jury excused for lunch until 1
12:58 p.m.	Court reconvened. Jury returned to the Courtroom. Direct examination of Stephen Gray continued by Mr. Barr.
1:16 p.m.	'745 Patent discussed.
1:32 p.m.	Cross examination of Mr. Gray by Mr. Baxter.
1:36 p.m.	Gray deposition clip shown
1:38 p.m.	Gray deposition clip shown.
2:21 p.m.	Bench conference. Objection overruled.

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2:22 p.m.	PX 1 used.
2:25 p.m.	Redirect examination of Mr. Gray by Mr. Barr.
	Patents shown.
2:34 p.m.	Recross examination of Mr. Gray by Mr. Baxter.
2:35 p.m.	Redirect examination of Mr. Gray by Mr. Barr.
2:37 p.m.	Recess.
2:53 p.m.	Hearing outside the presence of the jury.
2:54 p.m.	Motion to Strike presented by Mr. Baxter as to Mr. Gray. Response by Mr. Barr. Court denied the Motion.
2:58 p.m.	Direct examination of Ambreen Salters by Mr. Whiteley.
3:35 p.m.	Cross examination by Mr. Stevenson of Ms. Salters.
3:50 p.m.	PX 446 used.
3:52 p.m.	PX 570 used.
4:21 p.m.	Bench conference.
4:22 p.m.	Recess.
4:38 p.m.	Court reconvened.
4:39 p.m.	Jury returned to the Courtroom. Redirect examination of Ms. Salters by Mr. Whiteley.
	PX 158 used
4:48 p.m.	Recross examination of Ms. Salters by Mr. Stevenson.
4:51 p.m.	Parties passed the witness.
4:52 p.m.	Defendants rest. Reserved right
4:53 p.m.	Plaintiff's Rebuttal Case
	Dr. Martin called to testify by Mr. Budwin.
5:07 p.m.	PX 3 shown
5:17 p.m.	Cross examination of Dr. Martin by Mr. Barr.
5:26 p.m.	DTX 287 used.
5:27 p.m.	Redirect examination of Dr. Martin by Mr. Budwin.
5:29 p.m.	Parties passed the witness.
5:30 p.m.	Plaintiff rests and closes.
5:32 p.m.	Jury excused until 9 a.m.
5:34 p.m.	Recess for 15 minutes. 8:00 a.m. Formal charge conference/exhibits read into record.
5:54 p.m.	Court reconvened. Rule 50 motions argued.
	Mr. Budwin argued on behalf of Plaintiff. Plaintiff's Judgment as a Matter of Law on Infringement.
5:57 p.m.	Response by Mr. Barr

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5:58 p.m.	The Court denied the motion.
5:58 p.m.	Plaintiff's Judgment as a Matter of Law on Invalidity defenses argued by Mr. Budwin.
6:00 p.m.	Defendant's response by Mr. Barr.
6:01 p.m.	Court asked for further clarification. Mr. Barr responded.
	Court ruling. Granted in part denied in part.
6:03 p.m.	JMOL re priority date
	Mr. Barr responded.
	Court granted.
6:04 p.m.	JMOL re inventors by Mr. Budwin. No argument by Defendant
	Court granted.
6:05 p.m.	Failure to join indispensable parties. By Mr. Budwin
6:06 p.m.	Mr. Barr only affirmative defense is licensing.
	Court response?
	Mr. Budwin argued re licensing.
6:07 p.m.	Response by Mr. Barr. Only asserting Adobe.
	Court response.
6:10 p.m.	Response by Mr. Budwin.
6:12 p.m.	Response by Mr. Barr. DTX 95 used. Adobe License.
6:13 p.m.	Court denied as to Adobe License. Other licenses are not in.
6:15 p.m.	Defendants' Judgment as a Matter of Law on Doctrine of Equivalents #370, argued by Mr. Barr. Budwin no objection. Granted.
6:16 p.m.	Defendants' Judgment as a Matter of Law re Inducement argued by Mr. Barr
6:17 p.m.	Mr. Budwin responded.
6:19 p.m.	Court denied.
6:19 p.m.	Defendants' Judgment as a Matter of Law re reasonable royalty rate argued by Mr. Barr.
6:20 p.m.	Mr. Stevenson responded.
6:21 p.m.	Mr. Barr responded.
6:22 p.m.	Court denied the motion as to royalty.
	Future royalty JMOL by Mr. Barr.
6:24 p.m.	Mr. Stevenson responded.
	Court ruling. Not submitting future royalty to jury.
6:25 p.m.	Defendants' post suit willfulness JMOL by Mr. Barr.
6:26 p.m.	Mr. Budwin responded.
6:29 p.m.	Mr. Barr responded further.
6:30 p.m.	Mr. Budwin responded.

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6:31 p.m.	Court adjourned.